

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Wednesday, July 9, 2003 – 9:00 a.m. – Room 416 State Capitol

Members Present:

Rep. David Ure, House Chair
Sen. Mike Dmitrich
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. Judy A. Buffmire
Rep. James R. Gowans

Members Absent:

Sen. Howard A. Stephenson, Senate Chair
President Al Mansell
Rep. Merlynn T. Newbold
Speaker Martin R. Stephens

Staff Present:

Mr. Arthur L. Hunsaker, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Cassandra N. Bauman, Legislative Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary at 538-1032.

1. Committee Business

Chair Ure called the meeting to order at 9:16 a.m. Sen. Stephenson, President Mansell, Rep. Newbold, and Speaker Stephens were excused from the meeting.

MOTION: Sen. Dmitrich moved to approve the minutes of the June 5, 2003 meeting. The motion passed unanimously.

2. Viatical Settlements

Mr. Hunsaker introduced the issue. He explained that H.B. 4, 2003 General Session, "Viatical Settlements" granted the Insurance Commissioner permission to make rules in a number of specific regulatory areas. A few of the proposed rules appear to go beyond the permitted regulatory areas listed in the bill.

Mr. Neal Gooch, Deputy Insurance Manager, Insurance Department, indicated that the Insurance Department has broad statutory authority to make rules and that the Department relied very heavily on the general rulemaking authority when writing the rules based on H.B. 4. He responded to questions.

Mr. Kent Bishop, Governor's Office of Planning and Budget, indicated that the Governor's Office does not have a response and needs time to study the issue in consultation with Mr. Gary Doxey, Governor's Legal Counsel.

Rep. Ure indicated that he would like this issue to be brought back to the Committee when Mr. Doxey can provide further insight on this issue.

Committee discussion followed.

3. Statutory Terms Related to Rulemaking

Mr. Kevin Carter, Director, School and Institutional Trust Lands Administration (SITLA), distributed and presented "The Trust Lands Administration." He suggested that, in light of the deletion of the definition of the term "policy" in S.B. 30, 2003 General Session, "Administrative Rulemaking Act Amendments," some of the uses of the term "policy" in statutes governing SITLA should be changed to "rule" to clearly show where grants of rulemaking authority were made.

Mr. Hunsaker distributed and presented "Statutory Terminology and S.B. 30 *Administrative Rulemaking Act Amendments*." He also distributed "S.B. 30 Utah Administrative Rulemaking Act Amendments and When Rulemaking is Required." He explained the background on the issue and discussed options for the Committee to consider as state agencies respond to S.B. 30.

Committee discussion followed.

Chair Ure indicated that this issue will be brought back to the next meeting for further discussion.

4. Staff Report: Affirmative Action Decision and its Impact on Rulemaking

Ms. Allred distributed and reviewed "Overview: Grutter v. Bollinger – U.S. Supreme Court" and "Summary of the Bakke Case." She explained the ruling in the recent U.S. Supreme Court case Grutter v. Bollinger, which addressed the policies of institutions of higher education that choose to establish criteria for diversity in the admittance process.

Committee discussion followed.

5. Other Items / Adjourn

Future meetings are tentatively scheduled for Wednesday, August 6 and August 20, 2003 at 9:00 a.m.

MOTION: Rep. Gowans moved to adjourn the meeting. The motion passed unanimously.

Chair Ure adjourned the meeting at 11:22 a.m.